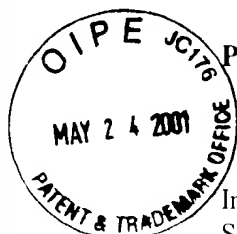


# Sector



PATENT

Attorney Docket No. 6374

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Barron, et al.

Serial No.: 09/788,308

Group No.: 1646

Filed: February 16, 2001

Examiner:

For: POLYPEPTOID PULMONARY SURFACTANTS

Box Missing Parts

Assistant Commissioner for Patents

Washington, D.C. 20231

COMPLETION OF FILING REQUIREMENTS

(check and complete this item, if applicable)

- I. ☒ This replies to the Notice to File Missing Parts of Application (PTO-1533) mailed March 20, 2001.

NOTE: If these papers are filed before the office letter issues, adequate identification of the original papers should be made, e.g., in addition to the name of the inventor and title of invention, the filing date based on the "Express Mail" procedure, the serial number from the return post card or the attorney's docket number added.

- ☒ A copy of the Notice to File Missing Parts of Application-Filing Date Granted (Form PTO-1533) is enclosed.

NOTE: The PTO requires that a copy of Form PTO-1533 be returned with the response to the notice to file missing parts to the application.

DECLARATION OR OATH

- II. ☒ No original declaration or oath was filed. Enclosed is the original declaration or oath for this application.

OR

- ☐ The original declaration or oath which was filed was determined to be defective. A new original oath or declaration is attached.

NOTE: 37 CFR 1.41(a) points out that "Full names must be stated, including the family name and at least one given name without abbreviation together with any other given name or initial."

NOTE: For surcharge fee for filing declaration after filing date complete item VI(3) below.

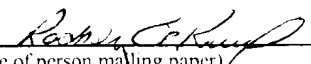
CERTIFICATE OF MAILING (37 CFR 1.8)

I hereby certify that this paper (along with any paper referred to as being transmitted therewith) is being deposited with the United States Postal Service as First Class Mail on the date shown below to Post Office to Addressee," in an envelope addressed to the: Box Missing Parts, Assistant Commissioner for Patents, Washington, D.C. 20231.

Rodney R. DeKruif

(Type Or Print Name Of Person Mailing Paper)

Date: May 21, 2001

  
(Signature of person mailing paper)

NOTE: Acceptable minimums in the declaration for identification of the specification to which it applies are the name of the inventor and (1) serial number (2) attorney docket number which was on the application as filed and the filing date (3) title of the invention and filing date (4) title of invention and reference to a specification which is attached to the declaration at the time of execution and filed with the declaration or (5) title of invention and a statement by a registered attorney that the application filed in the PTO is the application which the inventor executed by signing the declaration. If identification (4) is used it must be accompanied by a statement that the "attached" specification is a copy of the specification and any amendments thereto which were filed in the PTO to obtain the filing date; such a statement must be a verified statement if made by a person not registered to practice before the PTO. Notice of September 12, 1983 (1035 O.G. 3).

NOTE: Another minimum found acceptable in the declaration is the filing date (i.e., date of express mail) and the express mail number, useful where the serial number is not yet known. But note the practice where the express mail deposit is a Saturday, Sunday or holiday within the District of Columbia. 37 CFR 1.10(c).

(complete (c) or (d), if applicable)

Attached is a

- (c) ☒ Statement by a registered attorney that the application filed in the PTO is the application which the inventor executed by signing the declaration.
- (d) ☐ Statement that the "attached" specification is a copy of the specification and any amendments thereto which were filed in the PTO to obtain the filing date.

#### AMENDMENT CANCELLING CLAIMS

- III. ☐ Cancel claims \_\_\_\_\_ inclusive.

#### TRANSMITTAL OF ENGLISH TRANSLATION OF NON-ENGLISH LANGUAGE PAPERS

- IV. ☐ Submitted herewith is a verified English translation of the non-English language application papers as originally filed. It is requested that this translation be used as the copy for examination purposes in the PTO.

NOTE: For fee processing a non-English application complete item VI(5) below.

NOTE: A non-English oath or declaration in the form provided or approved by the PTO need not be translated. 37 CFR 1.69(b).

NOTE: The translation for a regular application filed in a foreign language must be verified. 37 CFR 1.52(d).

#### SMALL ENTITY STATUS

- V. ☐ A verified statement that this filing is by a small entity

NOTE: If an original verified statement and a refund request is filed within two months of the date of payment of a fee, then the excess fee paid will be refunded on request. 37 CFR 1.28(a).

(check and complete applicable items)

- ☐ Assertion of Small Entity Status form is attached.
- ☐ A separate refund request accompanies this paper.
- ☐ was filed on \_\_\_\_\_ (original)

## COMPLETION FEES

VI.

*WARNING: Failure to submit the surcharge fees where required will cause the application to become abandoned. 37 CFR 1.53(d).*

NOTE: The filing fees, fees for claims and surcharge fees listed below in items 1, 2 and 3 are reduced by 50% where proof of a small entity status is established on or before the date the fee is paid. If the full fee was paid but a verified statement is filed within 2 months of the date of timely payment of a fee then the excess fee paid will be refunded on request. 37 CFR 1.28(a).

1. Filing fee  
☒ original patent application (37 CFR 1.16(a))-\$710.00;  
Small entity-\$355.00 \$710.00  
☐ design application (37 CFR 1.16(f))-\$320.00; small  
entity-\$160.00 \$  
\$
2. Fees for claims  
☒ each independent claim in excess of 3 (37 CFR  
1.16(b))-\$80.00; small entity-\$40.00 \$400.00  
☒ each claim in excess of 20 (37 CFR 1.16(c))-\$18.00;  
small entity-\$9.00 \$198.00  
☐ multiple dependent claim(s) (37 CFR 1.16(d))-  
\$260.00; small entity-\$130.00 \$
3. Surcharge fees  
☐ late payment of filing fee

and/or

- ☒ late filing of original declaration or oath (37 CFR  
1.16(e))-\$130.00; small entity-\$65.00); \$130.00

NOTE: Even where a facsimile declaration or oath signed by the inventor(s) was part of the originally filed papers the surcharge fee is required.

NOTE: If both the filing fee and declaration or oath were missing from the original papers only one surcharge fee for both need be paid. 37 CFR 1.16(e).

4. ☐ Petition and fee for filing by other than all the inventors  
or a person not the inventor  
(37 CFR 1.17(h) and 1.47-\$130.00) \$
5. ☐ Fee for processing an application filed with a  
specification in a non-English language (37 CFR  
1.17(k) and 1.52(d))-\$130.00 \$
6. ☐ Fee for processing and retention of application  
(37 CFR 1.21(l) and 1.53(d))-\$300.00 \$

7. ☒ Assignment (See "ASSIGNMENT COVER SHEET") \$40.00

NOTE: 37 CFR 1.21(l) establishes a fee for processing and retaining any application which is abandoned for failing to complete the application pursuant to 37 CFR 1.53(d) and this, as well as, the changes to 37 CFR 1.53 and 1.78 indicate that in order to obtain the benefit of a prior U.S. application, either the basic filing fee or the processing and retention fee of \$ 1.21(1) within 1 year of notification under \$1.53(d) must be paid.

Total completion fees \$1,478.00

### EXTENSION OF TIME

VII.

(Complete (A) Or (B) As Applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

- (a) ☐ Applicant petitions for an extension of time, the fees for which are set out in 37 CFR 1.17(a)-(d), for the total number of months checked below:

Extension (months)	Fee for other than <u>small entity</u>	Fee for <u>small entity</u>
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 380.00	\$190.00
<input type="checkbox"/> three months	\$ 870.00	\$435.00
<input type="checkbox"/> four months	\$1360.00	\$680.00

Fee \$ \_\_\_\_\_

If an additional extension of time is required please consider this a petition therefor.

(check and complete the next item, if applicable)

- ☐ An extension for \_\_\_\_\_ months has already been secured and the fee paid therefor of \$ \_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ \_\_\_\_\_

or

- (b) ☒ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

**TOTAL FEE DUE**

**\$1,478.00**

VIII.

The total fee due is

Completion fee(s) \$1,478.00

Extension fee (if any) \$ \_\_\_\_\_

TOTAL FEE DUE \$1,478.00

**PAYMENT OF FEES**

IX.

- ☒ Enclosed is a check in the amount of \$1,478.00  
☐ Charge Account No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_  
A duplicate of this request is attached.

NOTE: Fees should be itemized in such a manner that it is clear for which purpose the fees are paid. 37 CFR 1.22(b).

X. **AUTHORIZATION TO CHARGE ADDITIONAL FEES**

*WARNING: ACCURATELY COUNT CLAIMS, ESPECIALLY MULTIPLE DEPENDANT CLAIMS, TO AVOID UNEXPECTED HIGH CHARGES IF EXTRA CLAIMS ARE AUTHORIZED.*

- ☒ The Commissioner is hereby authorized to charge the following additional fees which may be required by this paper and during the pendency of this application to Account No. 18-0882.  
☒ 37 CFR 1.16 (a), (f) or (g) (filing fees)  
☒ 37 CFR 1.16 (b), (c) and (d) (presentation of extra claims)

NOTE: Because additional fees for excess or multiple dependent claims not paid on filing or on later presentation must only be paid or these claims cancelled by amendment prior to the expiration of the time period set for response by the PTO in any notice of fee deficiency (37 CFR 1.16(d)), it might be best not to authorize the PTO to charge additional claim fees, except possibly when dealing with amendments after final action.

- ☒ 37 CFR 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)  
☐ 37 CFR 1.17 (application processing fees)

*WARNING: WHILE 37 CFR 1.17(A), (B), (C) AND (D) DEAL WITH EXTENSIONS OF TIME UNDER S 1.136(A) THIS AUTHORIZATION SHOULD BE MADE ONLY WITH THE KNOWLEDGE THAT: "SUBMISSION OF THE APPROPRIATE EXTENSION FEE UNDER 37 CFR 1.136(A) IS TO NO AVAIL UNLESS A REQUEST OR PETITION FOR EXTENSION IS FILED." (EMPHASIS ADDED). NOTICE OF NOVEMBER 5, 1985 (1060 O.G. 27).*

- ☐ 37 CFR 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 CFR 1.311(b))

NOTE: Where an authorization to charge the issue fee to a deposit account has been filed before the mailing of a Notice of Allowance, the issue fee will be automatically charged to the deposit account at the time of mailing the notice of allowance. 37 CFR 1.311(b).

NOTE: 37 CFR 1.28(b) requires "Notification of any change in loss of entitlement to small entity status must be filed in the application prior to paying, or at the time of paying ... issue fee". From the wording of 37 CFR 1.28(b): (a) notification of change of status must be made even if the fee is paid as "other than a small entity" and (b) no notification is required if the change is to another small entity.

**Reg. No. 35,853**

**Tel. No.: (414) 298-8360**

  
\_\_\_\_\_  
**SIGNATURE OF ATTORNEY**

\_\_\_\_\_  
Rodney D. DeKruif  
**(TYPE OR PRINT NAME OF ATTORNEY)**  
Reinhart, Boerner, Van Deuren,  
\_\_\_\_\_  
Norris & Rieselbach, s.c.  
**(P.O. ADDRESS)**  
Attn: Linda Gabriel, Docket Clerk  
1000 North Water Street, Suite 2100  
\_\_\_\_\_  
Milwaukee, WI 53202-3186

**CUSTOMER NO. 22922**



## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20221  
www.uspto.gov

APPLICATION NUMBER	FILING RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/788,308	02/16/2001	Annelise E. Barron	6374

CONFIRMATION NO. 7049

22922

REINHART BOERNER VAN DEUREN NORRIS & RIE  
SELBACH, S.C.

ATTN: LINDA GABRIEL, DOCKET COORDINATOR  
1000 NORTH WATER STREET SUITE 2100  
MILWAUKEE, WI 53202-3186

## FORMALITIES LETTER



\*OC000000005880974\*

Date Mailed: 03/20/2001

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted*

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.  
*Applicant must submit \$ 710 to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).*
- Total additional claim fee(s) for this application is \$598.
  - \$198 for 11 total claims over 20.
  - \$400 for 5 independent claims over 3.
- The oath or declaration is missing.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is \$ 1438.**

*A copy of this notice MUST be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE